

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 14TH NOVEMBER 2006 / 23RD KARTHIKA 1928

OP.No. 14989 of 2001(H)

PETITIONER:

M/S.GUPTA ENTERPRISES, EASTERN STREET,
POST BOX NO.44, ELURU (A.P), REPRESENTED BY
ITS MANAGER, MR.S.N.V.SATYANARAYANA.

BY ADV. SRI.ANIL D. NAIR

RESPONDENTS:

1. COMMERCIAL TAX OFFICER, MUNNAR, DEVIKULAM,
IDUKKI DISTRICT.
2. INSPECTING ASSISTANT COMMISSIONER OF
AGRICULTURAL INCOME TAX AND SALES TAX,
DEVIKULAM.
3. DIVISIONAL FOREST OFFICER, MUNNAR DIVISION,
DEVIKULAM, IDUKKI DISTRICT.
4. THE FOREST RANGE OFFICER, MARAYOOR RANGE,
MUNNAR DIVISION.

BY SPL.GOVERNMENT PLEADER FOR TAXES SRI.RAJU JOSEPH.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD 9-11-2006, ALONG WITH
WPC NO. 6210 OF 2005 WPC NO. 31709 OF 2005 THE COURT ON 14-11-2006 DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1- TRUE COPY OF THE LETTER DATED 31-3-2001 ISSUED BY THE FOURTH RESPONDENT TO THE PETITIONER.

EXT.P2- TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE FOURTH RESPONDENT DATED 17-4-2001.

EXT.P3- TRUE COPY OF THE ORDER OF THE EXPORT ORDER OF TSAI GIM SU SHANG HANG DATED 20-1-2000.

EXT.P4- TRUE COPY OF THE ORDER IN CMP 7225/1993 IN OP 460/93 DATED 23-3-1993.

EXT.P5- TRUE COPY OF THE LETTER DATED 13-7-2002 ALONG WITH THE COPY OF FORM H NO.163489 AND THE BILLS OF LADINGS.

EXT.P6- TRUE COPY OF THE EXTENDED BANK GUARANTEE DATED 3-6-2005.

Thottathil B. Radhakrishnan, J.

=====

**O.P.No.14989 of 2001,
W.P.(C) NO. 6210 of 2005 &
W.P.(C) NO.31709 of 2005**

=====

Dated this the 14th day of November, 2006.

J U D G M E N T

Are purchases of sandalwood billets, roots, etc. for complying with export orders for sandalwood chips permitted for export, to be deemed to be in the course of such export, for the purpose of Section 5 (3) of the Central Sales Tax Act, 1956, "CST Act" for short? This, pithily, is the issue in these writ petitions.

2. Stated to be to satisfy existing orders for export, petitioner, engaged in the export of sandalwood, participated in, and successfully bid, different forest auctions held by the Kerala Forest Department. When called upon to pay the entire sales tax due under the Kerala General Sales Tax Act, 1963 ("KGST Act", for short) along with the balance consideration, petitioner claimed exemption under

Section 5(3) of the CST Act. These writ petitions are filed for a direction to release the goods without collecting sales tax, on furnishing documents in support of the claim of exemption.

3. Respondents contend, inter-alia, that (i) sandalwood is a taxable item, falling in Schedule V of the KGST Act and it is a condition of the tender that tax at the prescribed rate will be applicable to all successful bids, irrespective of the destination of the goods; (ii) though after the bid, petitioner informed that the purchase of sandalwood was to fulfil export commitments under subsisting agreements or orders, the sales by the Forest Department to the petitioner were not for the purpose of complying with any export order; (iii) export of sandalwood, a restricted item, can be only under licence issued by the Director General of Foreign Trade, ("DGFT", for short) and therefore, there cannot be any sale by the Forest Department in the course of export; (iv) the goods purchased from the Forest Department are different from the goods mentioned in the export orders as well as the goods that could be exported under the law governing

exports; (v) the goods purchased are not exported in the same form, without losing their identity and (vi) that therefore, exemption under Section 5(3) of the CST Act is not available.

4. W.P.(C) No.6210 of 2005, with counter affidavit and an additional affidavit of the petitioner, with additional documents, placed during the course of hearing, was treated as the leading one, for addressing arguments. In this judgment also, except in a tabular statement *infra*, exhibits are referred to as marked in that case.

5. The learned senior counsel for the petitioner argued that (i) the terms of the tender cannot over-ride the laws, to tie down the petitioner to liability to pay tax under the KGST Act, if the transaction is in the course of export, thereby falling under Section 5(3) of the CST Act; (ii) what is purchased and exported is sandalwood and there is no manufacture involving the purchased goods, before the exports; (iii) there is no change in the nature and character of the goods, by the mere knocking down of the sandalwood purchased from the Forest

Department into chips; (iv) the aforesaid issues are decided in favour of the petitioner, by the Division Bench of the Madras High Court in Ext. P12 judgment, dealing with similar transactions between the petitioner and the Tamil Nadu Forest Department; (v) entry at Sl. No. 8 in Schedule V to the KGST Act is a comprehensive one, namely, timber, which, when read applying Explanation II at the foot of the said Schedule, that "Timber includes all kinds of wood, standing timber, logs, plants, rafters of any size or variety", would show that all goods relating to timber are treated as timber; and (iv) that therefore, no change in the nature and character of the goods can be assumed in the instant case.

6. On behalf of the respondents, the learned special government pleader (taxes) argued that (i) there is nothing on record to show that the Forest Department was notified that the purchase is intended for the purpose of export and that therefore, it has to be taken that there was no sale by the Department for the purpose of export; (ii) the liability to pay tax is primarily of the Department and that therefore, it cannot be treated to have entered into

any transaction exempted from tax, without its intention to enter into such a transaction, depriving the State of the tax due, the entitlement of which was specifically included in the tender conditions; (iii) being a restricted item, sandalwood can be exported only in such form as is permitted under the licence issued by the DGFT and the goods purchased from the Forest Department are not of the descriptions contained either in the export licence issued to the petitioner by the DGFT or as described in the export orders shown to have been issued by the foreign buyers; (iv) sandalwood, as sold by the Department cannot be exported under the law governing exports; and (v) since the goods purchased from the Department were not exported in the same form, but were manipulated to make them export-worthy, because they were not so originally, the exported goods had lost their identity, characteristics and nature as the goods purchased from the Department and therefore, exemption under Section 5(3) of the CST Act is not available.

7. In cases where the questions involved were as to the appropriate entry into which particular

goods may fall, under the different sales tax and other fiscal laws, it has been held by the Apex Court that sales tax law is intended to tax sale or supply of different commercial commodities and as soon as a separate commercial commodity comes into existence or emerges from the production or manufacture, it becomes a separately taxable entity of goods for the purpose of sales tax. - See **State of A.P. v. Modern Proteins Ltd., 1994 Supp (2) SCC 496.** Considering whether rice, obtained by dehusking, remains to be paddy, the Apex Court held in **Ganesh Trading Co. v. State of Haryana, (1974) 3 SCC 620,** that while it is true that rice was produced out of paddy, it is not true to say that paddy continued to be paddy even after dehusking, after which its identity as paddy is changed into rice. In **State of Karnataka v. B. Raghurama Shetty, (1981) 2 SCC 564,** the Apex Court, considering the same question, gave an illustration whether wheat flour be called wheat and considered the distinction from the economic perspective. The Apex Court laid the test that in the manufacturing, the wheat is converted into flour and thereafter the flour is utilized to manufacture bread. The miller converted the wheat produced by the farmer into flour

and the baker used the flour to make bread out of it.

In Rajasthan Roller Flour Mills Assn. v. State of Rajasthan, 1994 Supp (1) SCC 413, the Supreme Court, considering whether flour, maida and suji derived from wheat are not 'wheat' within the meaning of Section 14 of the CST Act, held that they are goods, different and distinct from wheat and though flour, maida and suji are derived from wheat, they are not wheat. In Hindustan Aluminium Corpn. Ltd. v. State of U.P., (1981) 3 SCC 578, the Apex Court considered whether metal takes within its ambit the fabricated forms of metal and held that metal was used under Section 3-A (2) of the U.P. Sales Tax Act, 1948 in its primary sense, i.e, in the form in which it is marketable as the primary commodity and that the primary form and the forms fabricated from the primary form constitute two distinct commodities marketable as such and must be regarded as different commercial commodities. In Atul Glass Industries (P) Ltd. v. Collector of Central Excise, (1986) 3 SCC 480, the entry in the Schedule to the Excise Act came up for consideration before the Supreme Court. The question was whether "glass" includes "glass mirror" or "glassware" in the Schedule to the Excise Act.

Their Lordships applied the functional test and held that the original glass sheet gets completely transformed as a result of the process through which it undergoes, as it emerges as a glass mirror. It was, therefore, held that a glass mirror could not be regarded as glassware. In **Dy. CST v. Coco Fibres, 1992 Supp (1) SCC 290**, the question was whether coconut fibre is a separate entity from the coconut husk. Laying down the test to be applied, the Apex Court stated that the essential point to remember is that something is brought into existence which is different from that of the original, existing in the sense that the thing produced is by itself a commercial commodity and is capable, of being sold or supplied, as such. It is not necessary that the stuff or the material or the original article must lose its character or identity or it should become transformed in basic and essential properties. In **G.R. Kulkarni v. State, (1957) 8 STC 294**, the Division Bench of the Madhya Pradesh High Court considered the question whether breaking boulders into stone is manufacture within the meaning of Section 2(i) of the M.P. Sales Tax Act. It was held that after quarrying if an attempt is made to break them (stone), may be by

manual labour, into sizes for sales or *gitti*, the stone is shaped into an object of a different size. It was noticed that the word 'manufacture' has got various shades of meanings, may be the manufacture of a complicated object like the super-constellation, or a simple object like a toy kite. Accordingly, when they are broken into metal or *gitti*, there is some process, manual though it may be, for the purpose of shaping, the stones into another marketable commodity. Hence, it was held that stone making is a new article exigible to sales tax. The Apex Court quoted this decision with approval, in **Modern Proteins Ltd. (*supra*)**.

8. Coming to precedents directly under Section 5(3) of the CST Act, the under-mentioned are relevant.

9. In **Vijayalaxmi Cashew Co. v. CTO, (1996) 1 SCC 468**, it was held by the Apex Court that in order to claim protection of Section 5(3), it has to be established that the last sale or purchase before the sale or purchase occasioning export were of those goods which were exported. The deeming section

expands the concept of export sales to include the penultimate sale or purchase of goods preceding sale or purchase occasioning the export. But, the penultimate sale or purchase of goods must be of those goods, which were actually exported.

10. After noticing that it was held in **Vijayalaxmi Cashew Co. (*supra*)**, that to claim the benefit under Section 5(3) of the CST Act, a dealer has to establish the identity of the goods purchased and the goods exported, the Supreme Court, laid down in **Satnam Overseas (Export) v. State of Haryana, (2003) 1 SCC 561**, that when, in order to fulfil an export obligation, some goods are purchased and processed which resulted in change of the identity and character of the goods like processing of paddy into rice, which is exported, then it would not be an export of the same goods and that Section 5(3) of the CST Act would not apply. It was further held that the usual commercial parlance test that is applied is as to how such goods are known in commercial circles. It was held unnecessary to delve into the process of changing of identity of goods from that involved in the penultimate sale to that actually exported, be it

an elaborate one as was found in State of Travancore Cochin v. Shanmugha Vilas Cashewnut Factory - (AIR 1953 SC 333) and in Vijayalaxmi Cashew Co. (supra) or involves only a simple process as was the case in Sterling Foods v. State of Karnataka, (1986) 3 SCC 469, not affecting the identity of the goods (raw material).

11. Dealing with a case where the exporter had purchased fresh frog legs and after removing the skin, washing and removing dirt etc. and freezing it for the purpose of avoiding decomposition, exported it, the Apex Court, in Dy.CST v. Shiphy International, 1988 Supp SCC 439, held that Section 5 (3) of the CST Act applied. In doing so, reliance was placed on Sterling Foods (supra), in which the Supreme Court considered the situation where shrimps, prawns and lobsters, locally purchased for complying with prior export orders were exported after the process of cutting their heads and tails, peeling, cleaning, freezing and packing. It was held in Sterling Foods (supra) that after such processing, shrimps, prawns and lobsters retained their original identity and did not become different commodities. In

Shafeeq Shammel & Co. v. Asstt. Commr., Commercial Taxes, (2003) 9 SCC 276, dealing with a case of change of raw hides and skins to dressed hides and skins, for export, it was laid down that Section 5(3) would not be applicable where the goods which are sold or purchased have undergone transformation.

12. In **Sterling Foods (supra)**, the Apex Court held as follows:

"It is clear on a plain reading of sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 that in order to attract the applicability of that provision, it is necessary that the goods which are purchased by an assessee for the purpose of complying with the agreement or order for or in relation to export, must be the same goods which are exported out of the territory of India. The words "those goods" in this sub-section are clearly referable to "any goods" mentioned in the preceding part of the sub-section and it is therefore obvious that the goods purchased by the assessee and the goods exported by him must be the same. If by reason of any processing to which the goods may be subjected after purchase, they change their identity so that commercially they can no longer be regarded as the original goods, but instead become a new and different kind of goods and

then they are exported, the purchases of original goods made by the assessee cannot be said to be purchases in the course of export."

(emphasis supplied)

13. Explaining **Sterling Foods (supra)**, the Supreme Court stated in **Shiphy International (supra)** as follows:

" This Court expressed the view that the test applied for the purpose of determining whether a commodity subjected to processing retained its original character and identity is as to whether the processed commodity is regarded in the trade by those who deal in it as distinct in identity from the original commodity or it is regarded, commercially and in the trade as same as the original commodity."

14. In **Shiphy International (supra)**, it was further laid down as follows:

"5. Every processing does not bring about a change in the character and identity of the commodity. The nature and extent of processing may vary from one case to another and indeed there may be several stages of processing and perhaps

different kinds of processing at each stage. With each process suffered, the original commodity experiences change. But it is only when the change or a series of changes take the commodity to the point where commercially it can no longer be regarded as the original commodity but instead is recognized as a new and distinct commodity that it can be said that a new commodity, distinct from the original, has come into being. The test is whether in the eyes of those dealing in the commodity or in commercial parlance the processed commodity is regarded as distinct in character and identity from the original commodity."

(emphasis supplied)

15. Considering the question whether raw shrimps, prawns and lobsters, after suffering processing, retain their original character or identity, or become a new commodity, in the context of Section 5(3) of the CST Act, it was held in **Sterling Foods (*supra*)** that such an issue has to be determined not on the basis of any distinction made by the State legislature for the purpose of exigibility to State sales tax, but has to be determined on the basis of what is commonly known or

recognized in commercial parlance. It was held in that case that the purchased shrimps, prawns and lobsters did not lose their original character and identity by processing, for the purpose of export and so far as commercial parlance or popular usage is concerned, they remained the same goods.

16. Assimilating the above, it can be seen that if in commercial parlance and according to what is understood in the trade by the dealer and the consumer, the goods retain their original character and identity, they do not become a new distinct commodity and Section 5(3) of the CST Act would be attracted. As a necessary corollary, it has to be held that where, original character and identity of the goods involved in the penultimate sale undergoes a change or transformation in character and identity in commercial parlance, Section 5(3) of the CST Act does not apply. Still further, the classification or grouping of goods in the taxing statute including any homogenous treatment to prevent escape from the tax net are no indicia to determine whether the exported goods are those goods which were the subject matter of the penultimate purchase.

17. The Foreign Trade (Development and Regulation) Act, 1992 (the "FTDR Act", for short) provides, among other things, in Section 3, the power of the Central Government to make provisions for development and regulation of foreign trade. Sub-section (2) of Section 3 empowers the Central Government to make provision for prohibiting, restricting or otherwise regulating import and export of goods. Section 5 of the FTDR Act empowers the Central Government to formulate and announce, from time to time, the Export and Import Policy ("exim policy", for short) by notification in the official gazette and also, in like manner, amend that policy. Section 11(1) provides that no export or import shall be made by any person except in accordance with the provisions of that Act, the rules and orders made thereunder and the exim policy for the time being in force. The exim policy, as evidenced by Ext.R3(b), authorises export of only such classes of sandalwood as are provided for therein. In terms of Section 3 (3) of the FTDR Act, all goods to which any order under Section 3(2) of that Act applies shall be deemed to be goods, the import or export of which, has been prohibited under Section 11 of the Customs

Act, 1962 and the provisions of the Customs Act shall have effect accordingly. So much so, while export of sandalwood can be only in such forms permitted by the DGFT, there can be no export of sandalwood in any other form. Any export of sandalwood except in the forms permitted by the DGFT would be an illegal export contravening the provisions of the FTDR Act and the Customs Act.

18. Ext.R3 (a) addressed by the Zonal Joint DGFT to the Conservator of Forests, High Range Circle, Kottayam and Ext.R3 (b) public notice issued by the DGFT in exercise of powers under "exim policy" show that sandalwood is not covered by Open General Licence, but one falling under the restricted list for which an exporter has to make specific request for licence to DGFT, who releases quota from time to time and that the categories of **sandalwood allowed for export** are "sandalwood chip class" in the form of **heart wood chips upto 50 grams, mixed chips upto 50 grams, flakes upto 20 grams of the sandalwood classes (Jajpokal I class, Jajpokal II class, Antibagar, Cheria Milvathilta, Basolabjukni, saw dust, charred billets), sandalwood chips/powder,**

sandalwood dust obtained as waste after the manufacturing process and **sandalwood in any other form as approved by the Exim Facilitation Committee** in the Directorate General of Foreign Trade.

19. Ext.P18 export licence issued to the petitioner under FTDR Act would also show that **licence to export is granted only for the categories mentioned** therein, namely sandalwood in the form of **heart wood chips upto 50 grams, mixed chips not exceeding 30 grams and flakes upto 20 grams** of the sandalwood classes, **Jajpokal I class, Jajpokal II class, Antibagar, Cheria Milvachilta, Basolabukhi, saw dust, charred billets, sandalwood powder, dust, chips and flakes.**

20. In the additional affidavit sworn to by the petitioner on 10-11-2005, Ext.P17 Rules Regarding Selection, Cleaning, Classification and Disposal of Sandalwood etc. issued by the Tamil Nadu Forest Department is marked followed by the averment that the various classes of sandalwood are described in Ext.P17 and it will be seen that the classification is purely on the basis of weight of billets, defects

noticed in the billets and the length of the billets etc. and these are not different types or varieties of sandalwood. Ext.P17 issued by the Tamil Nadu Forest Department is sought to be relied on, in the uncontroverted context that the description of the various classes of sandalwood are not published in any notification by the Kerala Forest Department, which also apparently follows the said publication of the Tamil Nadu Forest Department.

21. Ext.P17 shows that the finally cleaned wood will be sorted and classified into different classes, nineteen of which are named in Ext.P17. Items 1 to 6 are billets. Items 7 to 9 are roots and items 10 and 11 are hollow and ragged pieces. Items 12 and 13, namely, **Ainbagar** and **Charia**, are sound and unsound pieces differentiated among themselves on the basis of weight. **Billet** is a small log of wood or a piece of timber sawn on three sides rounded on the fourth - See **Chambers 20th Century Dictionary**. Going by Ext.P17, **Vilayat Budh** are first class billets which are free from defects and weigh less than 10 kilograms. **China Budh** are second class billets which are free from defects and weigh

approximately between 5 kilograms to 10 kilograms.

Panjam are third class billets which are free from defects and weigh approximately two kilograms to five kilograms. **Chotla** or short billets are billets

without defects but less than one metre in length, weight being immaterial. **Ghat Badla** are billets of approximately five kilograms and above in weight.

Bagradad are billets weighing approximately less than five kilograms. **First, second and third class roots,**

are to weigh approximately not less than 7 kilograms, approximately not less than 2 kilograms and approximately less than 2 kilograms respectively.

All side roots also fall under the third class of roots. **Jajpokal** are hollow and ragged pieces, first

class, weighing approximately not less than 3 kilograms while the second class, not less than one kilogram. **Ain Chilta** are chips and small pieces of

pure heartwood weighing below 200 grams. **Hatheri**

Chilta are very small chips and small piece of heartwood obtained in plaining Vilayat Budh, China Budh, Panjam and Chotla which are the first four

classes, going by Ext.P17. **Mulva Chilta** are the largest chips of mixed heart and sap wood and **Basola**

Bakni are small chips of mixed heart and sap wood.

22. The classification of sandalwood as per Ext.P17 when juxtaposed with the documents evidencing the items bid by the petitioner, as evidenced by different documents, would show the following:

No. of items bid	Writ petition	Exhibit	Item bid	Allowed for export?
1	14989/01	P2	Jajpokal	None of these items is allowed to be exported.
2	6210/05	P1, P3 & P15	Ghat Badla	
3			Bagradad	
4			Jajpokal	
5			Charia	
6	31709/05	P3 & P13	Chotla	
7			Chotla	
8			Bagradad	
9			Bagradad	
10			Root I class	
11			Jajpokal	
12			Jajpokal	
13			Jajpokal	
14			Jajpokal	

23. The export orders of foreign buyers, produced by the petitioner evidence that they were only for sandalwood chips, below 50 grams.

24. From the materials noted above, it can be seen that sandalwood as purchased by the petitioner from the Forest Department, in the form of billets, roots, or even chips weighing over 50 grams, could not have been exported in consonance with the exim policy and the export licence, without converting the same into chips of the description covered by the export licence. There is a prohibition, in law, for export of sandalwood in any form, other than that permitted under the exim policy and the export licence, with an order releasing quota for the export. So much so, the sandalwood purchased from the Forest Department as billets, roots etc. had to be converted into flakes, powder etc. weighing below not more than 50 grams to make them exportable goods. In commercial parlance, the goods prohibited from being exported stood converted to exportable goods. For the purpose of Section 5(3), what is relevant for consideration is whether the goods that formed the subject matter of the penultimate sale or purchase are the self-same goods that are exported. As held in **Sterling Foods** (*supra*), the words "those goods" in Section 5(3) are clearly referable to "any goods" mentioned in the preceding part of that sub-section

and it is, therefore, obvious that the goods purchased by the exporter and the goods exported by him must be the same. Here, the goods purchased by the assessee from the Forest Department are those which were incapable of being exported in terms of the relevant laws. The only types of goods that can be exported as sandalwood are those which fall under the categories permitted for export. Hence, the goods purchased by the petitioner from the Forest Department had to undergo the change from the commercial status of non-exportable goods to that of exportable goods, by change in its form from billets, roots etc. to flakes of the dimension or as dust, permitted for export, in terms of the laws relating to export. Such conversion of goods from a non-exportable state to an exportable state, to make an export in compliance with the laws of the country from which the export is made, is a situation where the goods, on conversion to facilitate the export, ceased to be "such goods" which were purchased from the Forest Department. Hence, the exports made by the petitioner are not of the goods which were purchased from the Forest Department and therefore, the claim of the petitioner for exemption under

Section 5(3) of the C.S.T. Act, necessarily fails.

25. It is in this context that the decision of the Madras High Court in W.A.Nos.94 to 96 of 2000 (Ext.P12) needs consideration. I am in complete agreement with the finding therein, following the decision of the Apex Court in **Consolidated Coffee v. Coffee Board, Bangalore (A.I.R. 1980 S.C. 1403)** that merely on the basis of the condition of sale notice, one could not be compelled to pay tax provided the exemption applies. However, the said judgment does not provide much support to the petitioner on the issue as to the identity of the goods to be found among that purchased and those exported. This is so because, a reference to Paragraph No.20 of the said judgment would show that though an attempt was made to the effect that the goods purchased by the appellant in that case (the petitioner herein) are different from the goods they sought to export, the same was not pursued by the learned counsel for the Tamil Nadu State Government. Though the Bench noticed that the different varieties of sandalwood purchased by the appellant have been reduced to small pieces for the purpose of export, the different

decisions cited were not referred to since no serious argument was raised by the Government and accordingly the Bench accepted the assessee's case. The Bench also appears to have seen the form in which the sandalwood is to be exported by the petitioner. But, as rightly pointed out by the learned special government pleader for taxes, the gist of the issue urged by the State of Kerala in these matters is that which the State of Tamil Nadu did not press for consideration before the Madras High Court. For the aforesaid reasons, I am unable to accept the said decision of the Madras High Court as a precedent deciding the issue of law as regards the interpretation of Section 5(3) of the CST Act touching the identity of the purchased and exported goods. At any rate, I am not persuaded to follow the said decision on that point.

In the result, these writ petitions fail. They are accordingly dismissed. No costs.